

AGENDA

COMMITTEE ON BILLS ON SECOND READING

**August 7, 2006
Aldermen Duval, Lopez,
Gatsas, Garrity, Pinard**

**Immediately Following Special BMA
Aldermanic Chambers
City Hall (3rd Floor)**

1. Chairman Duval calls the meeting to order.

2. The Clerk calls the roll.

3. Ordinance:

“Authorizing the Mayor to dispose of certain tax deeded property located at Map 0372, Lot 0010-A, known as L Chenette Ave.”

Gentlemen, what is your pleasure?

4. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

Gentlemen, what is your pleasure?

5. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban Multi-Family) zone district to include property currently zoned IND (Industrial) located on the south side of Holt Avenue between East Industrial Park Drive and Waverly Street and known as Tax Map 716, Lot 38.”

Gentlemen, what is your pleasure?

6. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) zoning district to include property currently zoned IND (Industrial) located on the south side of Gold Street east of the former Lawrence Branch of the B&M Railroad and including the following three lots Tax Map 875-14, 875-15, and 875-16.”

Gentlemen, what is your pleasure?

7. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the R-3 (Urban Multi-family) zoning district to include property currently zoned R-1B (Single-family) located on a portion of Tax Map 691 Lot #143-1 that will be on the north side of a proposed Gold Street Bypass and adjacent to Bradley Street and the New St. Augustin’s Cemetery.”

Gentlemen, what is your pleasure?

8. If there is no further business, a motion is in order to adjourn.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Authorizing the Mayor to dispose of certain tax deeded property located at Map 0372, Lot 0010-A, known as L Chenette Ave."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. That in accordance with New Hampshire RSA 80:80, the Mayor is authorized to convey a parcel of tax-deeded property known as Map 0372, Lot 0010-A, in the City of Manchester to Donald J. Pouliot and Nancy E. Pouliot of 95 Brent Street, Manchester, NH. The sale shall be evidenced by a deed without covenants and such other instruments as may be necessary to release all right, title, interest or claim in said parcel. Said property was acquired by the City of Manchester by virtue of Tax Collector's Deed, dated November 21, 1994, and recorded in the Hillsborough County Registry of Deeds, Volume 5593, Page 1655, on November 23, 1994. The purchase price of the parcel shall be Four Thousand One Hundred Fifty-dollars (\$4,150.00) an amount deemed reasonable by the Board of Assessors. Sale shall be contingent upon an agreement to merge Lot 10-A with Lot 10 of Tax Map 0372.
- II. This Ordinance shall remain in effect for six months from the date of passage.

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To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Lands and Buildings respectfully recommends, after due and careful consideration, that the Board of Mayor and Aldermen find property located at L Chenette Street known as Map 0372, Lot 0010-A surplus to City needs and further that:

In accordance with RSA 80:80 the Mayor be authorized to dispose of certain property situated at L Chenette Avenue, known as Map 0372, Lot 0010-A by executing deeds releasing all rights, title interest, or claims in said property. Said property was acquired by the City of Manchester by virtue of Tax Collector's deed dated November 21, 1994, and recorded in the Hillsborough County Registry of Deeds, Volume 5593, Page 1655, on November 23, 1994.

The Committee advises that it finds just cause to dispose of such through sale to an abutter as the property can serve no public purpose, there is only one direct abutter to Lot 10A whose acquisition of said lot would adequately resolve a building encroachment problem. The Committee recommends sale to the abutters Donald J. Pouliot and Nancy E. Pouliot of 95 Brent Street conditional upon lot consolidation with Lot 10 at a price of Four Thousand One Hundred Fifty-dollars (\$4,150.00), a value deemed reasonable by the Board of Assessors.

The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition and prepare such documents as may be required, and that the Finance Officer be authorized to credit tax deed accounts as deemed necessary. Pursuant to Statute requirements, enclosed is an ordinance which is recommended for referral to the Committee on Bills on Second Reading.

(Unanimous vote)

At a meeting of the Board of Mayor and Aldermen
held July 11, 2006 on a motion of Ald. O'Neil
duly seconded by Ald. Long the report
of the Committee was accepted and its recommendations

(adopted) ~~(deleted)~~

And. Bernier
City Clerk

Respectfully submitted,

Carol Johnson
Clerk of Committee
Deputy

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Law Offices
of
Bussiere & Bussiere
Professional Association
15 North Street
Manchester, New Hampshire 03104

EMILE R. BUSSIERE
EMILE R. BUSSIERE, JR.
KEITH F. DIAZ

Telephone (603) 622-1002
Facsimile (603) 668-6892

June 9, 2006

Via Fax Only (603) 624-6481

3 pages

City of Manchester
Attention: Leo Bernier, Clerk

Re: Donald J. Pouliot's and Nancy E. Pouliot's request to
purchase tax map 372 lot 10A

Dear Mr. Bernier:

Per my conversation with the Mayor's Office, I am faxing
herewith a copy of my letter dated June 2, 2006 regarding Don and
Nancy Pouliot's request for permission to purchase the two lots
referenced in said letter.

The purpose of this fax is to inform you that in said letter
I incorrectly identified the property as having an address of
85 Brent Street when, in actuality, the address of my clients'
property is 85 Cilley Road.

I hope this can still be placed on the next upcoming agenda
for the Board of Mayor and Aldermen.

Thank you for your attention to this matter.

Sincerely,

Emile R. Bussiere, Jr.
Emile R. Bussiere, Jr.

ERBJR:dpm
Enclosure
cc: clients (letter only)

3
*Law Offices
of
Bussiere & Bussiere
Professional Association*

15 North Street
Manchester, New Hampshire 03104

EMILE R. BUSSIERE
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KEITH F. DIAZ

*Telephone (603) 622-1002
Facsimile (603) 668-6892*

June 2, 2006

City of Manchester
Board of Mayor and Aldermen
Attn: Mayor's Office
1 City Hall Plaza
Manchester, NH 03101

Re: Donald J. Pouliot's and Nancy E. Pouliot's request to
purchase tax map 372 lot 10A

Dear Board of Mayor and Aldermen:

Please be advised that I represent Donald J. Pouliot and
Nancy E. Pouliot with respect to their request to purchase tax
map 372 lot 10A from the City of Manchester.

My clients purchased the property located at 85 Brent Street
(Tax Map 372 Lots 10, 26, 26A & 28A) on December 21, 1993, their
deed being recorded December 22, 1993 in the Hillsborough County
Registry of Deeds at Book 5507 Page 344.

Thereafter, on November 23, 1994, the City of Manchester
obtained title to tax map 372 Lot 10A via a tax deed indicating
the property had been owned by an unknown owner. This deed is
recorded in the Hillsborough County Registry of Deeds at Book
5593 Page 1656. My clients were not aware that the transfer
occurred.

Unbeknownst to my clients when they acquired the property,
their real estate, specifically the building located on their
property, appears to encroach upon tax map 372 Lot 10A.

At this time, my clients would appreciate the opportunity to
purchase tax map 372 Lot 10A from the City of Manchester. The
parcel does not appear to have any value to the City of
Manchester or any one else given its size and location. Further,
my clients' desire in acquiring the lot is primarily, if not
totally, driven by their concern relative to the encroachment
issue raised above and the problems they might encounter if they
were to sell their parcel.

RECEIVED

JUN 05 2006

MAYOR'S OFFICE

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City of Manchester
Board of Mayor and Aldermen
Attn: Mayor's Office
June 2, 2006
Page 2

It is requested that this matter be placed on the agenda for the next available meeting.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emile R. Bussiere, Jr.', with a stylized, flowing script.

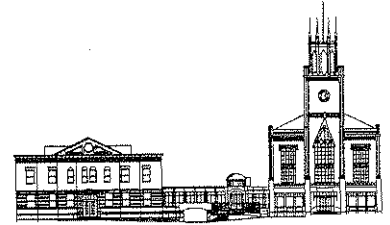
Emile R. Bussiere, Jr.

ERBJR:dpm
cc: clients



CITY OF MANCHESTER Board of Assessors

One City Hall Plaza, West Wing
Manchester, New Hampshire 03101
Tel: (603) 624-6520 – Fax: (603) 628-6288
Email: assessors@ci.manchester.nh.us
Web: www.ManchesterNH.Gov



David M. Cornell, Chairman
Thomas C. Nichols
Stephan W. Hamilton

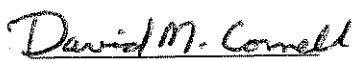
Christine Hanagan
Assistant to Assessors

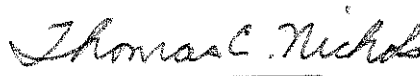
To: Committee on Lands and Buildings
From: Board of Assessors
Date: June 19, 2006
Re: Map 372 Lot 10A
Request to Purchase Property

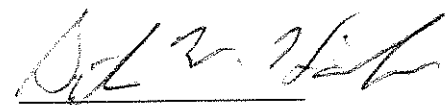
The Assessors have completed an analysis of the estimated market value of the above-referenced property. The following is a summary of important facts and the value estimate:

Property Location	Chenette Ave (see attached aerial photograph)
Assessors Map/Lot	Map 372 Lot 10A
Property Owner	City of Manchester Tax Collector
Deed Book/Page	5593/1655
Date Acquired	November 21, 1994
Improved/Vacant	Vacant
Total Land Area	1038 square feet
Current Zoning	B-2
Overlay District	N/A
Easements/Restrictions	None Known
Utilities Available	Water and Electric
Total Current Assessment	The current assessment is \$2,500. Note: This is the 2001 revaluation figure.
Indicated Range of Value/Unit	\$4.00 per square foot
Indicated Range of Value	\$4,150 (rounded)
Comments	The value stated herein represents the value, as is, for 1038 square feet of land. Due to the small size and narrow shape of the lot, the property has limited utility. Therefore, the highest and best use of the lot is determined to be a merger with an abutting property.

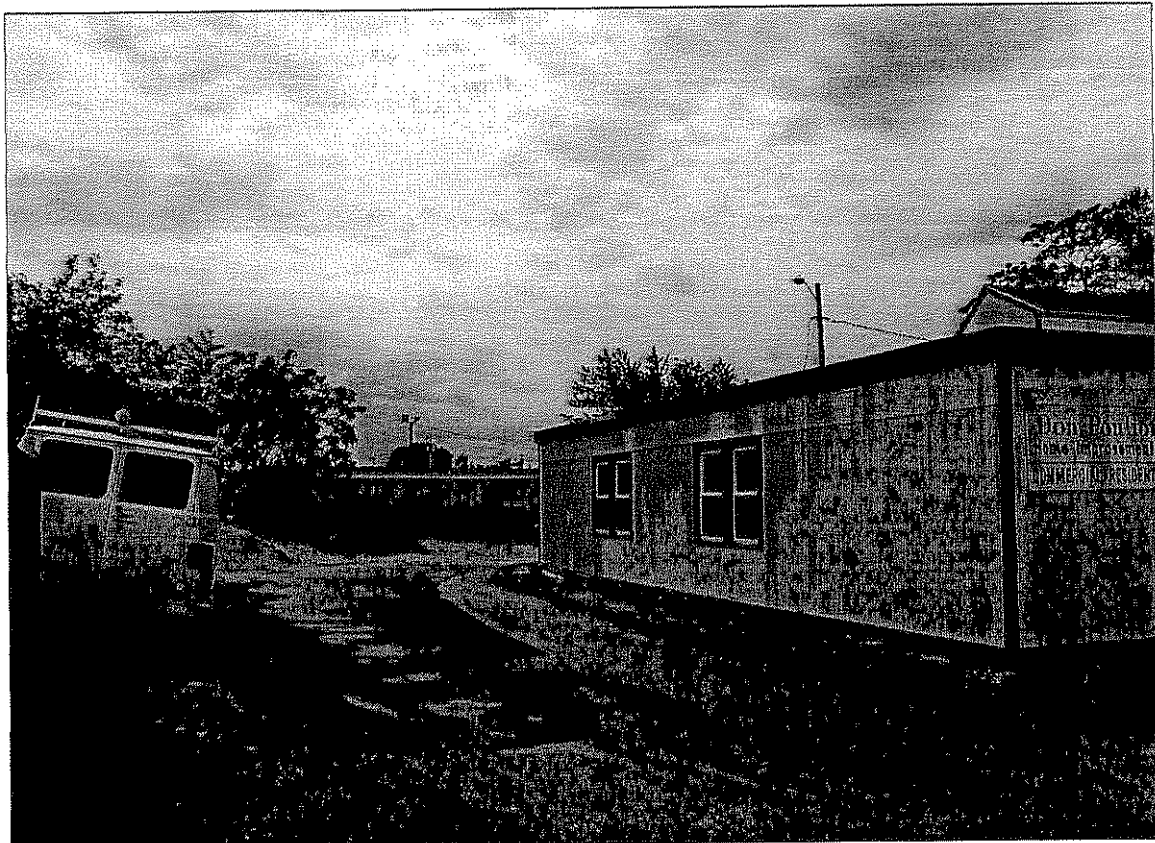
Respectfully submitted,


David M. Cornell

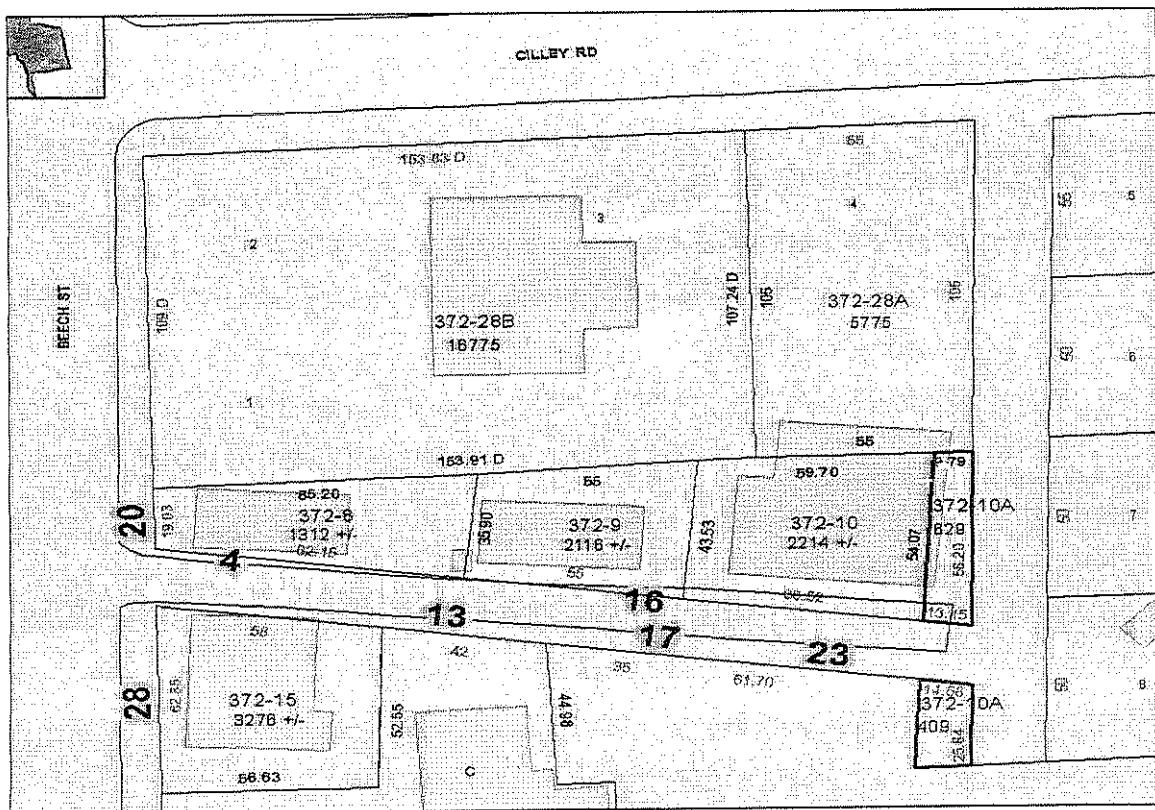

Thomas C. Nichols


Stephan W. Hamilton

Enclosure:

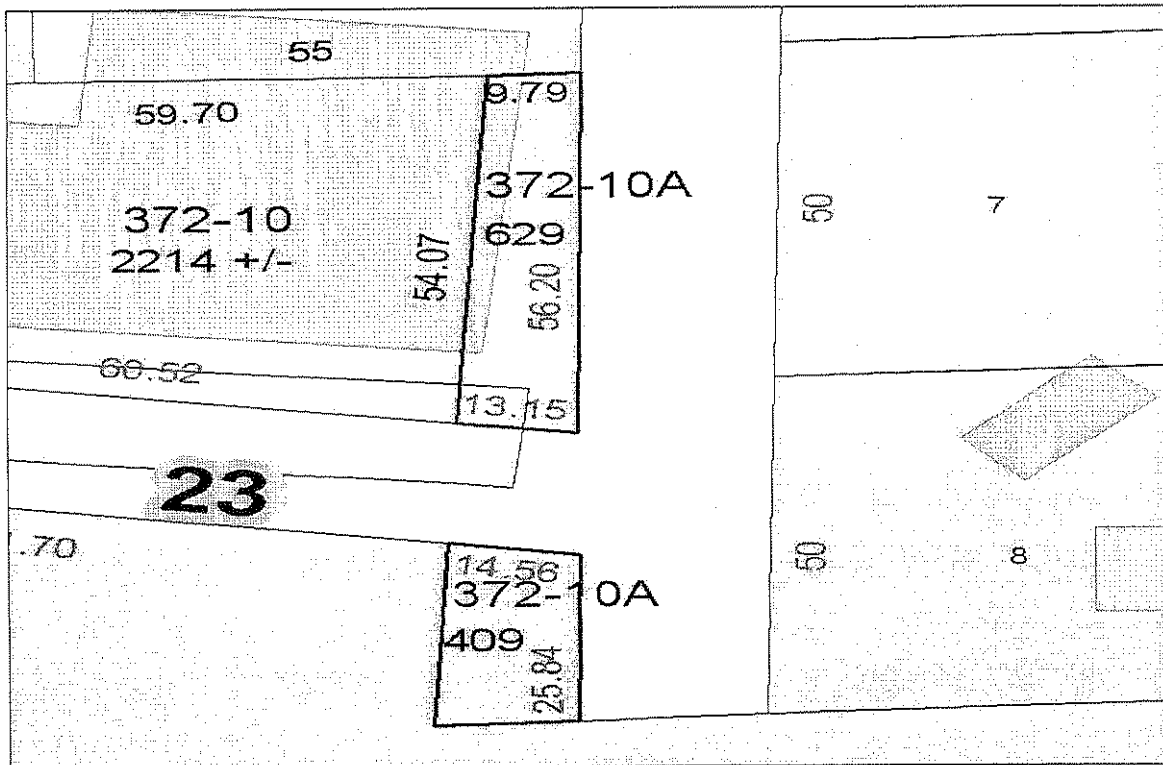


View Looking South

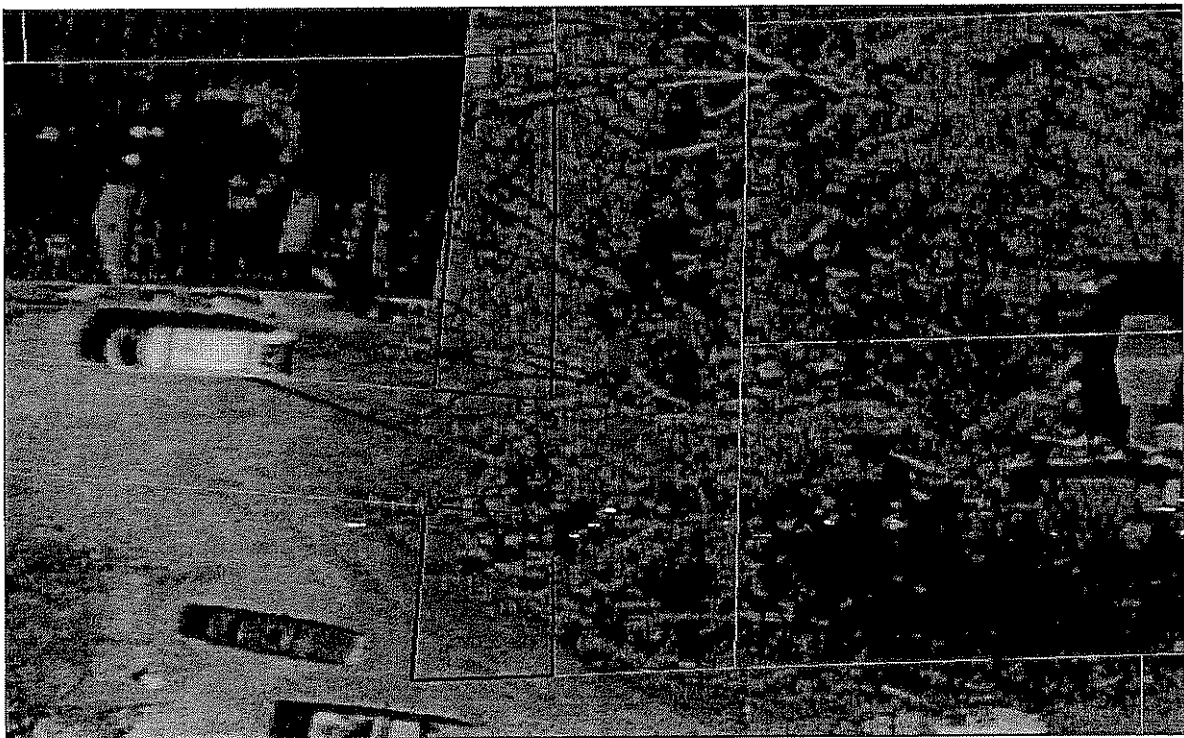


GIS Map

3



GIS Map



Aerial Photograph

Environs of TM 372, Lot 10A

CILLEY RD.

CHERRY AVE.

PRIVATE ALLEY / DRIVEWAY

CHENETTE AVE.

Chenette Ave.
TM 372
Lot 10A
600 s.f.

TM 372
Lot 28A
6,037 s.f.

TM 372
Lot 28A

85 Cilley Rd.
TM 372
Lot 10
3,054 s.f.

9 Cherry Ave.
TM 372
Lot 26



Properties owned by Donald & Nancy Pouliot
Property owned by City of Manchester

This map prepared by the City of Manchester Planning & Community Development Department (D. Beauchesne) on June 9, 2006.



Robert S. MacKenzie, AICP
Director

CITY OF MANCHESTER

Planning and Community Development

Planning
Community Improvement Program
Growth Management



Staff to:
Planning Board
Heritage Commission
Millyard Design Review Committee

June 19, 2006

Committee on Land and Buildings
Honorable Board of Mayor and Aldermen
City Hall - One City Hall Plaza
Manchester, N.H. 03101

RE: *Request to acquire city-owned land (TM 372, Lot 10A) on Chenette Avenue*

Dear Committee Members:

This is to provide a report pursuant to Section 34.20 pertaining to the above-referenced city-owned land and building.

Background: The City has received a written request from Donald and Nancy Pouliot to acquire a 600 s.f. city-owned parcel (TM 372, Lot 10A) which abuts several properties they own which are located on or near Chenette Avenue just south of the South Beech Street/Cilley Road intersection. The reason expressed by the Pouliot's for why they want to acquire Lot 10A is because a commercial building they own on Lot 10 crosses over the lot line boundary and onto Lot 10A and acquisition of Lot 10A would resolve their encroachment dilemma. As may be seen on the accompanying maps, three other Pouliot owned properties abuts city-owned Lot 10A.

Surplus Determination and Disposition: After discussion this request with appropriate City agencies, we have determined that there are no known reasons why the City should retain ownership of this tiny parcel and it is, therefore, the recommendation of the Planning & Community Development Department that the property be deemed surplus to City needs and disposed of through public sale at a price determined by the Assessor's Department. In this regard, the Board may especially wish to consider that the Pouliot's are the only direct abutters to Lot 10A and their acquisition of Lot 10A would adequately resolve their building encroachment problem.

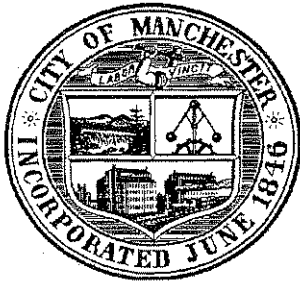
If sale of Lot 10A to the Pouliot's is deemed appropriate, we would recommend that the Board attach a condition to the sale which requires that Lot 10A (600 s.f.) be merged with abutting Lot 10 (3,054 s.f.) to form a single parcel.

If you have any questions, our staff will be available at your meeting.

Sincerely,

Robert S. MacKenzie, AICP
Director of Planning and Community Development

One City Hall Plaza, Manchester, New Hampshire 03101
Phone: (603) 624-6450 Fax: (603) 624-6529
E-mail: planning@ManchesterNH.gov
www.ManchesterNH.gov



City of Manchester
Office of the Tax Collector

City Hall
One City Hall Plaza - West
Manchester, New Hampshire 03101
(603) 624-6575 (Phone)
(603) 628-6162 (Fax)

Joan A. Porter
Tax Collector

Memorandum

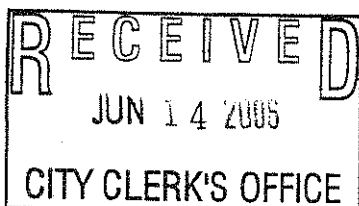
DATE: June 14, 2006
TO: Land & Building Committee
FROM: Joan A. Porter, Tax Collector
RE: L Chenette Ave

JAP

As requested, the following contains information regarding the Tax-Deeded property located at: **L Chenette Ave**

Prior Owners: Unknown
Map/Lot: 0372/0010-A
Lien Date: 04/17/1992
Deed Date: 11/21/1994
Recorded Date: 11/23/1994
Book/Page: 5593/1655
Back Taxes 343.25 (not including interest and costs)

I do not have any objections to the disposition of this property.



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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

Chapter 94: Noise Regulations

Section

General Provisions

- 94.01 Purpose
- 94.02 Scope
- 94.03 Definitions
- 94.04 Enforcement
- 94.05 Measurements
- 94.06 Submission of Fees

Minimum Standards

- 94.10 Noise Levels
- 94.11 Exemptions
- 94.20 Motor Vehicles

Administration and Enforcement

- 94.40 Noise Variance Board
- 94.42 Application Procedures
- 94.43 Prohibited Conduct
- 94.44 Penalties

Statutory reference:

Authority of city to regulate noise, see R.S.A. 47:17 II & XV.

GENERAL PROVISIONS

§ 94.01 PURPOSE.

It is the policy of the Board of Mayor and Aldermen of the City of Manchester to protect, preserve and promote the health, safety, welfare, peace and quiet of the citizens of Manchester through the reduction, control and prevention of noise. It is the intent of this ordinance to establish standards that will eliminate and reduce unnecessary environmental noise throughout the community which may be physically harmful or otherwise detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 94.02 SCOPE.

This ordinance shall only apply to noise originating within the city limits of the City of Manchester, NH that is traveling in the atmosphere or environment. This ordinance shall apply to all bodies of water within the city limits of the City of Manchester, irrespectively if they flow through or are contained partially or entirely within the city limits.

§ 94.03 DEFINITIONS.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMBIENT SOUND LEVEL. The A-weighted sound level of all sound associated with a given environment, exceeded ninety percent (90%) of the time measured and being a composite of sounds from many sources during the period of observation while the sound from the noise source of interest is not present.

ANSI. The American National Standards Institute.

ANSI S SERIES STANDARDS. Those ANSI standards relevant to sound, acoustics, shock, vibration and bioacoustics.

A-WEIGHTED SOUND PRESSURE. The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

COMMERCIAL POWER EQUIPMENT. Any equipment or device rated at more than five horsepower and used for building repairs or property maintenance excluding snow removal equipment.

COMMERCIAL PREMISES. Any land parcel with buildings where the use of less than fifty percent (50%) of the gross floor area meets the definition of residential premises. Includes locations of various scale operating as retail, automotive use, restaurant, governmental, financial, entertainment and cultural and shopping centers as identified pursuant to the Manchester Zoning Ordinance.

CONSTRUCTION EQUIPMENT. Any device or mechanical apparatus operated by fuel, electric, or pneumatic power in the excavation, construction, repair, or demolition of any building, structure, land parcel, street, alley, waterway, or appurtenance thereto.

DECIBEL. A logarithmic unit of measure often used in measuring magnitudes of sound. The symbol is dB.

DOMESTIC POWER EQUIPMENT. Any equipment or device rated at five (5) horsepower or less and used for building repairs or grounds maintenance excluding snow removal equipment.

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

EMERGENCY VEHICLE. An authorized motor vehicle that has sound warning devices such as whistles, sirens and bells which can lawfully be used when responding to an emergency, during a police activity or which is required by state or federal regulations (i.e., reverse alarms).

EMERGENCY WORK. An activity made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from exposure to imminent danger. It includes work by private or public entities for providing or restoring immediately necessary service as well as all situations deemed necessary by the city.

EMERGENCY POWER GENERATOR. The equipment used to generate electrical power in the event of an interruption, malfunction or failure of the electrical power supplied by the service provider.

GROSS FLOOR AREA. The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

INDUSTRIAL PREMISES. Any premise where the production of goods, materials or knowledge takes place. May include locations for manufacturing, warehousing, research and development, distribution or other selected offices as identified pursuant to the Manchester Zoning Ordinance.

MOTOR VEHICLE. Any vehicle that is self-propelled, used primarily for transporting persons or property upon public roadways and required to be licensed according to motor vehicle registration laws. The term motor vehicle shall not include: aircraft, watercraft, motor vehicles operated on private property for recreational or amusement purposes, vehicles used exclusively on stationary rails, or specialized utility vehicles normally used only on private property in the daily course of business such as forklifts, and pallet movers.

NOISE. Any sound that exceeds the standards set forth in this chapter, annoys or disturbs a reasonable person of normal sensibilities, or causes or tends to cause any adverse psychological or physiological effect on humans.

NOISE VARIANCE. Specific relief from the terms of this chapter as granted by the Noise Variance Board.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

PERSON. An individual, corporation, partnership, association, organization or similar entity.

PREMISES. Any building, structure, land, utility or portion thereof, including all appurtenances, and shall also include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

PROPERTY LINE. The real or imaginary line and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person. The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling unit building, condominium, or townhouse complex shall not be considered property lines separating one (1) property from another.

PUBLIC PREMISES. All real property including appurtenances thereon which is owned or controlled by any governmental entity and shall include streets, alleys, parks and waterways.

RECEPTOR PREMISES. The premises (residential, commercial, industrial, or public) as listed in Table A which is receiving noise emitted from the source premises after crossing one or more property lines. Also referred to as the receiving premise.

RESIDENTIAL PREMISES. Any premises where single or multiple dwelling units exist and shall include primary schools, churches, nursing homes and similar institutional facilities including any commercial premises where the use of more than fifty percent (50%) of the gross floor area meets this definition of residential premise.

SOUND. An oscillation in pressure, stress, particle displacement and particle velocity which induces auditory sensation.

SOUND LEVEL METER. An apparatus for the measurement of sound levels. The sound level meter shall be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute, publication S1.4 entitled Specification for Sound Level Meters.

SOUND PRESSURE LEVEL. Twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty (20) microneutons per square meter (20×10^{-6} Newtons/meter²) and is expressed in decibels (dB).

SOURCE PREMISES. The premises (residential, commercial, industrial, or public) as listed in Table A that is emitting noise that is crossing one or more property lines and impacting the receptor premises.

SNOW REMOVAL EQUIPMENT. Any equipment used for removing snow from land or building surfaces and shall include snowplows, snow blowers, snow sweepers, and snow shovels.

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

TABLE A. The reference table contained in § 94.10 of this chapter that details the maximum allowable noise levels for all premises in the City of Manchester, including a time of day allowance. Measurements of noise levels are made at the property line of the receiving premises.

TABLE B. The reference table contained in § 94.20 of this chapter that details the maximum allowable noise levels for all motor vehicles operating in the City of Manchester during any time of the day or night. Measurements of noise levels are made twenty-five (25) feet from the source motor vehicle.

TREE MAINTENANCE EQUIPMENT. Any equipment used in trimming or removing trees only and shall not be limited to chainsaws, chippers and stump removers.

§ 94.04 ENFORCEMENT.

The Chief of Police or his designee shall have and exercise the power to enforce the provisions of this title. Licenses or permits issued pursuant to this title shall also be enforced by a designee of the Office of the City Clerk. Enforcement shall include entering areas of public access or operation, free of charge, to ensure compliance and issuance of citations for any violations with penalties to be assessed as provided in §94.44 of this title.

§ 94.05 MEASUREMENTS.

For the purposes of this ordinance, the measurement of all physical parameters or entities associated with acoustics, sound, noise, or vibration shall comply with the most recent S series standards of ANSI, American National Standards Institute, Standards for Sound, Acoustics, Shock and Vibration, Bioacoustics. Furthermore, all physical parameters, or entities determined or calculated from such measurements relevant to acoustics, shock, vibration or bioacoustics shall be determined or calculated in accordance to the most recent S series standards of ANSI where so applicable.

§94.06 SUBMISSION OF FEES.

Fees for permits, applications and licenses shall be submitted with the applications under this chapter and shall be considered nonrefundable.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

MINIMUM STANDARDS

§ 94.10 NOISE LEVELS.

Noise levels shall be measured at any point along the property line or within the property line of the receiving premises to determine compliance of the source. When it is determined that the ambient sound level at the receiving premises equals or exceeds the maximum allowable sound pressure level specified in Table A, then the ambient sound level is the standard which cannot be exceeded by the source. The following table identifies allowable noise levels within various areas throughout the City:

TABLE A

Maximum Allowable Noise Levels (in dBA) with Time of Day Allowance

Source Premises	Receptor Premises							
	Residential		Commercial		Industrial		Public	
	7am-- 10pm	10pm-- 7am	7am-- 10pm	10pm-- 7am	7am-- 10pm	10pm-- 7am	7am-- 10pm	10pm-- 7am
Residential	55	50	65	60	80	75	75	70
Commercial	55 [60]	50 [60]	65	60	80	75	75	70
Industrial	55 [65]	50 [65]	65	60	80	75	75	70
Public	55 [60]	50 [60]	65	60	80	75	75	70
Body of Water	55	50	65	60	80	75	75	70

(The numbers in brackets are the allowable limits that comply with § 94.11 (N) Exemptions.)

§ 94.11 EXEMPTIONS.

The maximum permissible sound pressure levels as specified in Table A shall not apply to sounds emitted from:

(A) Any bell or chime from any building clock, school or church, not including any amplified bell or chime sounds emitted from loudspeakers.

(B) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in case of fire, collision, civil defense, police activity or imminent danger.

(C) Any aircraft in flight subject to federal law regarding noise control.

(D) Any ground-based aircraft activity including testing or engine run-up noise.

(E) Any motor vehicles designed for and operated on public streets, alleys, highways or freeways that are regulated by Table B.

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In the year Two Thousand and Six

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“Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(F) Any tree maintenance equipment operated upon a residential, commercial, industrial or public premises provided that operation of tree maintenance equipment between the hours of 9:00 p.m. and 7:00 a.m. shall not exceed the maximum noise levels as specified in Table A.

(G) Any construction equipment or activities in compliance with § 94.43 (F) of this ordinance.

(H) Any domestic power equipment operated upon any residential, commercial, industrial or public premises between 7:00 a.m. and 10:00 p.m. provided that such equipment does not exceed a sound pressure level of eighty (80) dBA when measured at the property line of the receiving premise.

(I) Any commercial power equipment operated upon any residential, commercial, industrial or public premises between 7:00 a.m. and 10:00 p.m. provided that such equipment does not exceed a sound pressure level of eighty-eight (88) dBA when measured at the property line of the receiving premise.

(J) The musical instruments of any school marching band while performing at any sporting event or marching band competition, and the musical instruments of any school marching band practicing on school grounds between the hours of 9:00 a.m. and 8:00 p.m. that do not exceed sixty-five (65) dBA when measured at the property line of the receiving residential premise.

(K) Following a snowstorm, snow removal equipment operated on any premises between the hours of 5:00 a.m. and 10:00 p.m. provided that such equipment does not exceed the sound pressure limits for commercial power equipment (eighty-eight (88) dBA) or domestic power equipment (eighty (80) dBA) when measured at the property line of the receiving premise.

(L) Any power generator providing emergency electrical power at any hospital, health clinic, nursing home or similar facility where the loss of electrical power creates an immediate risk to the health, safety or welfare of any person, or at any premises where such equipment is required by the Manchester Fire Department. Additionally, the noise emitted during the routine testing of emergency electrical power generators shall not exceed eighty-eight (88) dBA when measured at the property line of the receiving premise. Routine testing shall not exceed one (1) hour in any one-week period, or two (2) hours in any six-week period and shall be confined to the hours of 10:00 a.m. to 4:00 p.m. or as otherwise approved.

(M) Any industrial, commercial, or public premises exceeding the standards of Table A at a receiving residential premises when the zoning of the receiving residential premises does not allow residential use (residential use is nonconforming). However, in such a situation, the noise emitted by the industrial, commercial, or public premises shall not exceed the standards for receiving industrial premises.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(N) Any industrial, commercial, or public premises exceeding the standards of Table A at a receiving residential premises when such industrial, commercial, or public premises and their emitted noise level were in existence prior to the existence of the residential premises, provided however that the existing industrial premises does not exceed sixty-five (65) dBA and the commercial premises do not exceed sixty (60) dBA when measured at the receiving residential premises.

(O) Any water craft or noise emanating from or on a body of water between the hours of 7:00 a.m. and 10:00 p.m. provided that such noise does not exceed a sound pressure level of eighty-eight (88) dBA when measured at the property line of the receiving property and further provided that between 10:00 p.m. and 7:00 a.m. such equipment does not exceed the maximum sound pressure levels as specified in Table A.

§ 94.20 MOTOR VEHICLES.

All noise levels from motor vehicles shall be measured at twenty-five (25) feet from the source vehicle to determine compliance. Except where preempted by state law the standards in Table B shall apply to all noise emitted from motor vehicles including any and all equipment thereon, under any condition of acceleration, deceleration, idle, grade or load and whether or not in motion.

TABLE B

Maximum Allowable Noise Levels for Motor Vehicles

Type of Vehicle	Time Period	Maximum Allowable Sound Pressure Level measured in dBA	Measurement Distance from Motor Vehicle
Motor vehicles weighing less than 10,000 pounds, manufacturers gross vehicle weight	At any time	80	25 feet

City of Manchester New Hampshire

In the year Two Thousand and six

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

LICENSE REQUIREMENTS

ADMINISTRATION AND ENFORCEMENT

§ 94.40 NOISE VARIANCE BOARD.

It is recognized that in initiating community noise limits, any number of unanticipated situations may occur. Although the City is primarily concerned with protecting, preserving and promoting the health, safety, welfare and peace and quiet of the citizens of Manchester, the City realizes that there may be preexisting conditions that need an extended period of time to conform to the noise limits imposed by this ordinance. The City also recognizes that events or incidents can occur where there was every good faith expectation of complying with the noise limits imposed by this ordinance, but for some unforeseen circumstance, those events or incidents failed to comply.

This section hereby establishes a Noise Variance Board in which members shall approve or deny variances to this chapter, hereinafter referred to as a noise variance. The board shall consist of the Committee on Administration of the Board of Mayor and Aldermen.

§ 94.42 APPLICATION PROCEDURES.

Applications must be submitted to the Office of the City Clerk. General guidelines may be considered in the issuance of a noise variance. These guidelines are not all inclusive and other criteria may be established that is reasonable and prudent to protect the public or limit the anticipated detrimental impact of noise upon the community. The guidelines are as follows:

(A) Variances shall be granted prior to or in anticipation of an event.

(B) The City reserves the right to grant a variance after the fact if it is deemed by the Noise Variance Board to be in the public good, if the Board believes that an honest, fair and reasonable attempt was made to comply with the noise limits imposed by this ordinance, or the failure to comply was due to some unforeseen circumstance.

(C) A variance for the continuation of a non-complying activity may be granted after a reasonable attempt was made to comply and may contain such stipulations as the Board may deem necessary to protect the public that may include, but is not limited to:

1. Regulation of times;
2. The erection of noise barriers, shielding or other noise abatement; and
3. A demonstration of compliance progress.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations."

4

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

(D) The applicant bears the burden of presenting evidence sufficient to allow the Noise Variance Board to reach conclusions and make findings to support the authorization of a variance.

(E) The Board may require a public hearing on a certain matter to permit abutting landowners to present written or oral testimony for consideration of granting or denying a variance.

(F) The Board may request review and recommendations from various City departments including the Building Commissioner, Public Health Director, Director of Planning, Chief of Police, City Clerk or their designees. Testimony of department representatives may be requested at a variance hearing.

(G) Final decisions shall be made available within seventy-two (72) hours after a vote on an application. A written decision will be mailed to the applicant with copies made available to the departments of Health, Police and City Clerk.

(H) In granting a variance, the Board may impose such conditions or stipulations as it deems necessary and proper in order to preserve the intent of this chapter.

(I) All decisions by the Noise Variance Board are final and may not be appealed to any other municipal board, committee or commission.

(J) As community noise is a public health concern, noise variances shall only be granted for a reasonable period of time, not more than two (2) years.

(K) The renewal of a variance after two (2) years requires the consent of the Board of Mayor and Aldermen.

(L) Variances shall not be granted for continued or sustained violations that may be physically injurious to one or more persons as determined by the Public Health Director.

(M) Once an application has been denied by the Noise Variance Board, the same application may only be considered if the Board finds that the application is materially different in nature and degree from the prior application.

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 94.43 PROHIBITED CONDUCT.

The following conduct is prohibited:

(A) Provide any false or inaccurate information to any City board, committee, commission or any employee of the City of Manchester, in an attempt to deceive or otherwise avoid compliance with this ordinance.

(B) Hinder, obstruct, delay, resist, interfere, or attempt to interfere with any authorized person while in the performance of their duties under this ordinance.

(C) Emit or cause to be emitted any noise which leaves the premises on which it originates, crosses a property line, and enters onto any other premises in excess of the sound pressure levels during the time periods as specified in Table A, without a variance.

(D) Emit or cause to be emitted any noise within the public premises in excess of the limits defined in Table A without a variance.

(E) Reserved

(F) Operate any construction equipment or conduct any construction activities between the hours of 9:00 p.m. and 7:00 a.m. that exceed the noise limits of Table A. The City may grant variances from the construction restrictions if it can be demonstrated that a construction project will interfere with traffic if completed during daytime hours.

(G) Operate any trash compacting mechanism on any motor vehicle, or engage in any trash, rubbish or garbage collection activity between the hours of 10:00 p.m. and 7:00 a.m., when such activity takes place on any premises adjacent to a residential premises.

(H) Operate or permit the operation of any motor vehicle or combination of motor vehicles at any time or place when such operation exceeds the noise limits for the category of motor vehicle and for the designated time period as specified in Table B.

(I) Sound any horn or other audible signal device of an automobile, motorcycle, streetcar, or other vehicle unless it is necessary as a warning to prevent or avoid a traffic accident or reasonably inform or warn of a vehicle presence.

(J) Modify or change the exhaust muffler, air intake muffler or any other sound reducing device in such a manner that the noise emitted from the motor vehicle exceeds the sound pressure levels as established in Table B of § 94.20 except where permitted by state law.

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

§ 94.44 PENALTIES.

(A) Each act of violation of § 94.43 Prohibited Conduct and every day upon which any such violation shall occur in one (1) calendar year shall constitute a separate offense and follow the penalty schedule below:

(1) *FIRST OFFENSE:*

~~The offender shall be informed of the noise ordinance and corrective measures to achieve compliance. This shall constitute an official warning and should be accomplished in writing if possible.~~

A citation shall be issued to the offender in the amount of one hundred dollars (\$100.00).

(2) *SECOND OFFENSE:*

A citation shall be issued to the offender in the amount of two hundred and fifty dollars (\$250.00).

(3) *THIRD OFFENSE:*

A citation shall be issued to the offender in the amount of five hundred dollars (\$500.00).

(4) *FOURTH AND SUBSEQUENT OFFENSES:*

A citation shall be issued to the offender in the amount of one thousand dollars (\$1000.00).

(B) If the court finds for the City, the City shall recover its costs of suit including reasonable expert fees, attorney fees and necessary investigate costs.

This ordinance shall take effect upon its passage.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(K) The noise limits in Table A and Table B notwithstanding, no person shall:

- 1) Make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city.
- 2) Use, operate or permit to be played, used or operated of any radio, receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the inhabitants of a neighboring premises. The operation of any such set, instrument, phonograph, machine or device by a commercial establishment between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the lot line, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- 3) Use, operate, or permit to be played, used, or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure in such a manner that the occupants of a neighboring premises disturbed or annoyed.
- 4) Yell, shout, hoot, whistle, or sing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in neighboring premises.
- 5) Keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in a neighboring premises.
- 6) Use any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- 7) Transport rails, pillars, or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.



CITY OF MANCHESTER

Office of the City Clerk



Leo R. Bernier
City Clerk

Carol A. Johnson
Deputy City Clerk


Paula L-Kang
Deputy Clerk
Administrative Services

Matthew Normand
Deputy Clerk
Licensing & Facilities

Patricia Piecuch
Deputy Clerk
Financial Administration

MEMORANDUM

TO: Committee on Administration/Information Systems
Ald. O'Neil, Forest, Smith, Devries, Lopez

FROM: Matthew Normand 
Deputy Clerk

DATE: May 31, 2006

RE: Amendment to the Noise Ordinance

The police department has raised a concern with the recent noise ordinance passed on April 18, 2006. The penalties associated with Chapter 94: Noise Regulations, as currently written, were intended to be assigned to section 111.75 Noise Activities. The correct penalty for a first offense violation of the noise ordinance is one hundred dollars (\$100.00). The attached ordinance corrects this oversight as noted on the final page.

If you have any questions or concerns prior to your meeting, you may reach me at 624-6348.
Thank you.

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban Multi-Family) zone district to include property currently zoned IND (Industrial) located on the south side of Holt Avenue between East Industrial Park Drive and Waverly Street and known as Tax Map 716, Lot 38."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION 1. "Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban Multi-Family) zone district to include property currently zoned IND (Industrial) located on the south side of Holt Avenue between East Industrial Park Drive and Waverly Street and known as Tax Map 716, Lot 38, and being more particularly bounded and described as follows:

Beginning at a point on the centerline of Holt Avenue, said point being on the zone boundary line of the R-SM (Residential Suburban Multi-Family) and the IND (Industrial) zone district, prior to this amendment; and said point being approximately 165 ft. west of the intersection of the R-SM (Residential Suburban Multi-Family) zone district and the IND (Industrial) zone district, prior to this amendment;

Thence, southerly along the property line of Tax Map 716, Lot 38 and Tax Map 717, Lot 13A extended, a distance of approximately 438 ft. to a point;

Thence, westerly along property line of Tax Map 716, Lot 38 and Tax Map 717, Lot 1A a distance of approximately 423 ft. to a point;

Thence, northerly along the property line of Tax Map 716, Lot 38 and Tax Map 716, Lot 36A extended, a distance of approximately 436 ft. to a point, said point also being on the zone boundary line of the R-SM (Residential Suburban Multi-Family) and the IND (Industrial) zone district, prior to this amendment;

Thence, easterly along the zone boundary line of the R-SM (Residential Suburban Multi-Family) and the IND (Industrial) zone district, prior to this amendment; a distance of approximately 425 ft. to a point, said point also being the point of beginning.

Said description to include TM 716, Lot 38 consisting of approximately 3.90 acres of private land, to be rezoned from IND (Industrial) to R-SM (Residential Suburban Multi-Family) zone district, after this amendment.

SECTION II. Resolve this ordinance shall take effect upon passage.

John G. Cronin
Admitted in NH and MA

**CRONIN &
BISSON, P.C.**



ATTORNEYS AT LAW

722 Chestnut Street, Manchester, NH 03104

Phone: (603) 624-4333 Fax: (603) 623-5626

www.croninbisson.com

April 20, 2006

IN BOARD OF MAYOR & ALDERMEN

DATE: June 6, 2006

ON MOTION OF ALD. O'Neil

SECONDED BY ALD. Pinard
refer to the Committee

VOTED TO on Bills on Second Reading.

Board of Mayor and Aldermen
c/o Leo Bernier, City Clerk
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Re: Zoning Change
603 Holt Avenue
Map 716, Lot 38

Leo N. Bernier
CITY CLERK

Dear Board of Mayor and Aldermen:

Enclosed herewith please find the Petition for Rezoning, together with the filing fee, concerning the above referenced property on behalf of our client, 127 Elm Street, LLC. The petition seeks rezoning of the subject property to residential use.

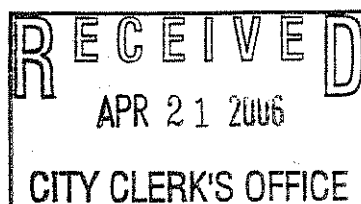
Please let us know if you require further information, or have any questions. Thank you for your consideration.

Sincerely yours,
CRONIN & BISSON, P.C.

By:

[Signature]
John G. Cronin

JGC:lma
Enclosure



STATE OF NEW HAMPSHIRE
CITY OF MANCHESTER

127 Elm Street, LLC

PETITION FOR REZONING

NOW COMES the Petitioner, 127 Elm Street, LLC, by and through its attorneys, Cronin & Bisson, P.C., and petitions the Board of Mayor and Aldermen of the City of Manchester, in accordance with Article 16 of the City of Manchester Zoning Ordinance, to amend the Zoning Map regarding a certain parcel of land located at 603 Holt Avenue, County of Hillsborough, City of Manchester and identified as Map 716, Lot 38 in the tax records for the City of Manchester. In support hereof, Petitioner states as follows:

1. Lorraine and Edwin Hartshorn are the owners of record of a parcel of undeveloped real property located at 603 Holt Avenue and identified as Map 716, Lot 38 in the tax records of the City of Manchester (the "Property"). Edwin Hartshorn is deceased, leaving Lorraine Hartshorn as the sole owner.
2. The Property is approximately three acres and is located in the industrial zone.
3. Although zoned industrial, the Property is located directly across Holt Avenue from a residential condominium development.
4. The property elevation changes dramatically from abutting industrial zoned properties and lies in close proximity to wetland areas.
5. The Petitioner, 127 Elm Street, LLC, as agent for the owner, seeks to change the zoning classification for the property from industrial to residential with the ultimate goal of construction of a residential condominium development similar to the existing development on Holt Avenue. (A letter of authorization from the record owner is attached as Exhibit A).
6. A copy of the City tax map showing the Property as situated in the industrial zone is attached as Exhibit B.

7. The proposed change would have little impact within the district since the Property's topography and proximity to wetlands and residential development make it difficult to develop for industrial use. In addition, a residential condominium development would be more consistent with the existing area.

8. The current zoning of "Industrial" is not compatible with the existing neighborhoods adjacent to the subject property. If the property were developed for an industrial use, it would create a detrimental impact of the neighboring residential properties.

9. Based on the anticipated market for residential condominiums in this area of the City and the number of units which could potentially be developed on the site, the proposed change should ultimately be tax positive for the City. Since the City is already servicing the existing residential condominiums in the area, there will likely be little net increase in the demand for City services as a result of the proposed change in zoning classification.

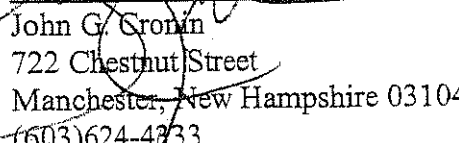
10. The names, addresses, tax map number and lot number of all abutting property owners and all properties on the opposite side of Holt Avenue is attached as Exhibit C.

11. In light of the support set forth in this petition, the Petitioner respectfully requests that the Honorable Board of Mayor and Aldermen approve this request to change the Zoning Map classification of 603 Holt Avenue to residential.

Respectfully submitted,

127 Elm Street, LLC
By its Attorneys,
CRONIN & BISSON, P.C.

By:


John G. Cronin
722 Chestnut Street
Manchester, New Hampshire 03104
(603) 624-4333

Dated: April 20, 2006



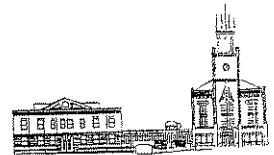


Robert S. MacKenzie, AICP
Director

CITY OF MANCHESTER

Planning and Community Development

Planning
Community Improvement Program
Growth Management



Staff to:
Planning Board
Heritage Commission
Millyard Design Review Committee

May 10, 2006

Mr. Leo Bernier, City Clerk
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Re: *Technical Review, Rezoning Petition - Holt Avenue*

Dear Mr. Bernier:

In accordance with the procedures on rezoning requests, the following information is being provided to your office in consideration of a rezoning request filed by agents for the owners of property on Holt Avenue (Lot 716-38). The subject parcel involves one parcel (that is proposed to be subdivided) on the southern side of Holt Avenue between East Industrial Park Drive and Waverly Street. It is 3.9+ acres in size, with a single-family residence. The subject property is currently zoned *Industrial (IND)*. The applicant is requesting that the zoning district be changed to Multi-family Residential (*R-SM*).

Presently, the land across the street from the site is zoned R-SM and includes townhouse units including Eastgate Apartments. As such, the proposal would be an extension of an existing zoning district rather than the creation of a new one. The proposal for the land, if rezoned, would be for townhouse units, which are permitted in the R-SM district. The 1993 Master Plan for the City of Manchester does not show the existing R-SM land in this area or proposed expansions of it.

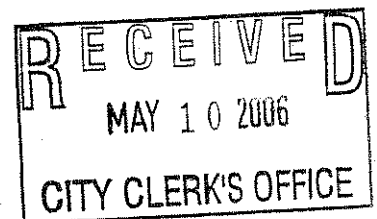
From a technical perspective, the petition may be forwarded to the Board of Mayor and Aldermen for consideration. Additional information may be required prior to the hearing as identified in 16.02 of the Manchester Zoning Ordinance. Consistent with the policy for rezoning petitions, the planning staff is providing a copy of the petition to the Planning Board, the Building Department and the Office of the City Solicitor for comment. Given that the land to be rezoned is currently Industrial, I have also begun discussions with the Director of Economic Development to gain his perspective on the change.

Please let me know when this will be referred to the Board of Mayor and Aldermen for consideration so that I will be available to answer questions.

Sincerely,

Robert S. MacKenzie, AICP
Planning Director

C: Planning Board
Office of the City Solicitor
Building Department
Economic Development Office
One City Hall Plaza, Manchester, New Hampshire 03101
Phone: (603) 624-6450 Fax: (603) 624-6529
E-mail: planning@ManchesterNH.gov
www.ManchesterNH.gov





City of Manchester Planning Board
c/o City of Manchester Planning & Community Development Dept.
One City Hall Plaza
Manchester, New Hampshire 03101
603-624-6450
Fax (603-624-6529)

June 9, 2006

Honorable Board of Mayor and Aldermen
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Re: *Proposed Amendment to Zoning Map – Holt Avenue*

Honorable Board Members:

At our most recent business meeting in May, the Planning Board discussed the proposed rezoning petition involving approximately 3.9 acres of land on Holt Avenue, between East Industrial Park Drive and Waverly Street. The property, known as Map 716/Lot38, with an address of 603 Holt Avenue, is presently zoned General Industrial (IND) and the applicant is requesting a change of this parcel to Suburban multi-family (RSM). The proposal involves maintaining the existing single family home on approximately 0.7 acres and developing the remaining 3.2 acres with 33 units of townhouses.

With this particular proposed amendment, the Planning Board was split in its opinion of the request. Some members felt that extending the R-SM across the street and rezoning the land, developing it consistent with the submitted plan, would be reasonable and consistent with the existing townhouses on the north side of Holt Avenue. Other Planning Board members felt that Manchester is consistently giving up, and rezoning, what little remains of industrial land in Manchester. Those members felt that building residential units on land surrounded by industrial uses would place a heavy burden on those existing industries to buffer their conforming operations from the new residential units. Those Planning Board members felt that the existing industrial uses would be limited in their expansion, since certain activities are prohibited in buffer areas between industrial and residential areas.

Another comment echoed by many of the Planning Board members was that, given the current review and update of the Master Plan, perhaps this request for rezoning is premature until the updated Master Plan is adopted later next year.

Thank you for taking our comments into consideration during your deliberations of this rezoning request.

Sincerely,

Kevin A. McCue, Chairman
Manchester Planning Board

C: Robert S. MacKenzie, Planning Director
Paul Borek, Economic Development Director

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) zoning district to include property currently zoned IND (Industrial) located on the south side of Gold Street east of the former Lawrence Branch of the B&M Railroad and including the following three lots Tax Map 875-14, 875-15, and 875-16."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION 1. "Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) zoning district to include property currently zoned IND (General Industrial/Industrial Park) located on Gold Street including Tax Map 875, Lots 14, 15, and 16, and being more particularly bounded and described as follows:

Beginning at a point on the centerline of the intersection of Gold Street and John E. Devine Drive extended, said point being on the zone boundary line of the B-2 (General Business) zone district and the IND (General Industrial/Industrial Park) zone district, prior to this amendment;

Thence, easterly along the centerline of Gold Street, also being the zone boundary line between the B-2 (General Business) zone district and the IND (General Industrial/Industrial Park) zone district, prior to this amendment, approximately 965 ft. to a point;

Thence, southerly along the zone boundary line of the B-2 (General Business) zone district and the IND (General Industrial/Industrial Park) zone district, prior to this amendment, a distance of approximately 570 ft. to a point;

Thence, southwesterly along the zone boundary line of the B-2 (General Business) zone district and the IND (General Industrial/Industrial Park) zone district, prior to this amendment, a distance of approximately 1,075 ft. to a point;

Thence, northwesterly generally along the centerline of the former Lawrence Branch of the Boston and Maine Railroad, a distance of approximately 1,090 ft. to a point, said point being the zone boundary line of the R-1B (Residential One-Family) zone district and the IND (General Industrial/Industrial Park) zone district, prior to this amendment;

Thence, easterly along the centerline of Gold Street, also being the new zone boundary line between the B-2 (General Business) zone district and the IND (General Industrial/Industrial Park) zone district, after this amendment, a distance of approximately 515 ft. to a point, said point also being the point of beginning.

Said description to include TM 875, Lot 14, Lot 15, and Lot 16 consisting of approximately 19.43 acres of private land, to be rezoned from IND (General Industrial/Industrial Park) to B-2 (General Business) zone district, after this amendment.

SECTION II. Resolve this ordinance shall take effect upon passage.

6
DEVINE
MILLIMET

ATTORNEYS AT LAW

By Hand Delivery

SUSAN V. DUPREY
603.695.8505
SDUPREY@DEVINEMILLIMET.COM

June 19, 2006

Office of the City Clerk
One City Hall
Manchester, NH 03101-2097

RE: GFI Gold Street, LLC - Petition for Rezoning

Dear Sir or Madam:

Enclosed please find a Petition for rezoning parcels Map 875, Lot 15 and Map 875, Lot 16. Also enclosed is our check in the amount \$300.00. Our office represents GFI, which requests this rezoning.

Please feel free to contact me should you have any questions regarding this matter or if additional information is required. Thank you.

Very truly yours,



Susan V. Duprey

SVD:ml

Enclosures

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July 11, 2006.

In Board of Mayor and Aldermen.

On motion of Alderman Garrity, duly seconded by Alderman Forest, it was voted to refer the petition for rezoning to a Public Hearing on Monday, August 7, 2006 at 6 PM in the Aldermanic Chambers of City Hall and further to authorize execution of agreements enclosed subject to the review and approval of the City Solicitor.



City Clerk

DEVINE, MILLIMET
& BRANCH
PROFESSIONAL
ASSOCIATION

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STATE OF NEW HAMPSHIRE
CITY OF MANCHESTER

GFI GOLD STREET, LLC

PETITION FOR REZONING

NOW COMES the Petitioner, GFI Gold Street, LLC, by and through its attorneys, Devine, Millimet & Branch, Professional Association, and petitions the Board of Mayor and Aldermen of the City of Manchester, in accordance with Article 16 of the City of Manchester Zoning Ordinance, to change the zone of and amend the Zoning Map regarding 2 parcels of land, one of which is located at 725 Gold Street and the other of which is near Gold Street, County of Hillsborough, City of Manchester and identified as Map 875 Lot 15 and Map 875 Lot 16 in the tax records for the City of Manchester. In support thereof, Petitioner states as follows:

1. GFI Gold Street, LLC is the owner of record of that parcel of land located at 725 Street and identified as Map 875 Lot 15 in the tax records of the City of Manchester (Property 1). Property 1 is approximately 15.178 acres in size and was formerly the site of Associated Grocers which has since relocated. Property 1 is currently zoned Industrial.

2. Ashkars Children's Limited Liability Company and John N. Ashkars own a parcel near Gold Street which has no building situate on it and abuts Property 1 which land is identified as Map 875 Lot 16 in the tax records of the City of Manchester ("Property 2"). Property 2 is approximately 36,864 square feet in size and is also zoned Industrial. Property 2 is subject to a purchase agreement in favor of GFI Gold Street, LLC.

3. The Petitioner, GFI Gold Street, LLC, for itself as owner of Property 1 and as agent for the owners of Property 2, seeks to change the zoning classification of Property 1 and Property 2 from Industrial to B-2 in order to locate a retailer on Property 1 and Property 2.

4. A copy of the tax map showing Property 1 and Property 2 as situated in the Industrial Zone and the zoning designations for the surrounding properties is attached is Exhibit A.

5. It is believed that the change of zone will have little impact on the surrounding area in that much of the surrounding area was either zoned B-2, has been rezoned from

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Industrial to B-2 or variances have been granted to allow uses permitted in the B-2 zone.

Changing the zone to B-2 will reduce heavy truck traffic in the area as Property 1 is now used as a 24 hour per day trucking terminal. Plans are being prepared to help address and to generally improve conditions on Gold Street.

6. This proposed change will have a substantial positive tax revenue impact for the City of Manchester and will have no effect on the environment as Property 1 is already developed for an industrial use. There will be no impact on municipal services or facilities.

7. The names, addresses, tax map numbers and lot numbers of all abutting property owners and all properties on the opposite side of the street from Property 1 and Property 2 are attached as Exhibit B.

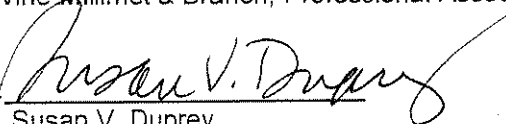
8. A metes and bounds description of Property 1 and Property 2 is attached as Exhibit C.

9. The Petitioner respectfully requests that the Honorable Board of Mayor and Aldermen approve this request to change the zone for Property 1 and Property 2 from Industrial to B-2 and to amend the Zoning Map to reflect this change.

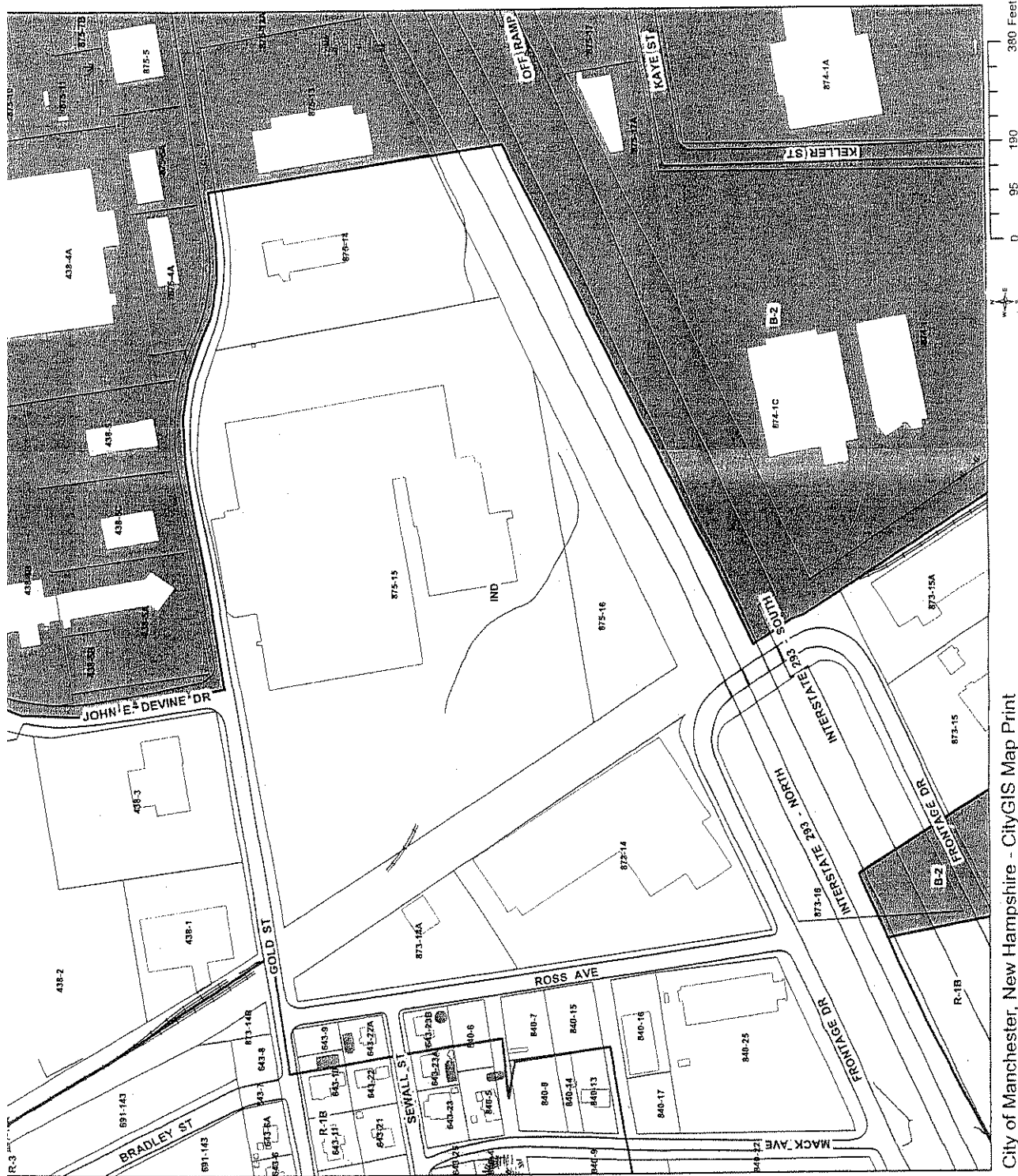
Respectfully submitted,

GFI Gold Street, LLC
By its Attorneys,
Devine Millimet & Branch, Professional Association

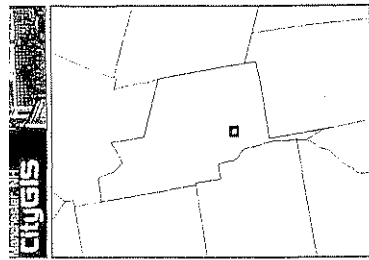
By:


Susan V. Duprey
111 Amherst Street
Manchester, NH 03101
(603) 695-8505

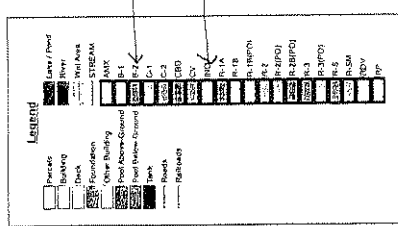
Dated: June 19, 2006



City of Manchester, New Hampshire - CityGIS Map Print



Inset Map Showing Extent of Map at Left



DISCLAIMER

The information appearing on this map is for the convenience of the user and is not an official public record of the City of Manchester, NH (the "City"). This map is not a survey. All boundaries, easements, areas, measurements, rights-of-way, etc. appearing on this map should only be considered as approximations, and as such have no official or legal value. The City makes no warranties, expressed or implied, concerning the accuracy, completeness, reliability, or availability of the information appearing on this map. The City is not responsible for any errors or omissions, or for any consequences arising from the use of the information appearing on this map. The official public records from which this information was compiled are kept in the offices of various City, County, and State government agencies and departments, and are available for inspection and copying during normal business hours. By using this map, you agree to these terms and conditions.

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Exhibit C

Legal Description for Lot 875-15, located at 725 Gold Street, Manchester:

A certain tract or parcel of land with the buildings thereon, situate in Manchester, Hillsborough County, State of New Hampshire, being Lot 875-15 on Plan # _____, entitled "ALTA/ACSM Land Title Survey, 725 Gold Street in Manchester, New Hampshire (Hillsborough County), dated December 22, 2005, prepared by BSC Group, more particularly bounded and described as follows:

Beginning at a point on the northeasterly corner of the Lot on the southerly line of Gold Street; thence

1. South $9^{\circ} 17' 43''$ East, a distance of 80.15 feet to a concrete bound found; thence
2. South $09^{\circ} 76' 53''$ East, a distance of 488.15 feet by the westerly side of Lot 875-14; to an iron pipe at the southeasterly corner of the lot; thence
3. South $64^{\circ} 53' 52''$ West, a distance of 310.73 feet by the northerly line of the Interstate Highway 293 to an iron pipe; thence
4. South $82^{\circ} 28' 33''$ West, a distance of 517.33 feet by the northerly line of Lot 875-16 to an iron pipe at the southeasterly corner of the premises; thence
5. North $32^{\circ} 51' 25''$ West, a distance of 21.90 feet to an iron pipe; thence
6. North $08^{\circ} 01' 16''$ West, a distance of 19.62 feet to an iron pipe; thence
7. North $32^{\circ} 51' 25''$ West, a distance of 714.62 feet by the easterly side of the rail road tracks to an iron pipe at the northwest corner of the premises on the southerly line of Gold Street; thence
8. North $80^{\circ} 33' 28''$ East, a distance of 305.63 feet by the southerly line of Gold Street to an iron pipe; thence
9. North $80^{\circ} 16' 28''$ East, a distance of 586.18 feet by the southerly line of Gold Street to an iron pipe; thence
10. Curving in a southeasterly direction with a radius of 399.80 feet, along the southerly line of Gold Street, a distance of 230.44 feet to the point of beginning.

Containing 15.178 Acres, more or less.

Legal Description for Lot 875-16, located on Gold Street, Manchester:

A certain Tract or parcel of land, situated in Manchester, bounded and described as follows:

Beginning at a point on the southwest corner of the premises north of the Interstate Highway 293, thence

1. North $32^{\circ} 51' 25''$ West along said Manchester-Lawrence Railroad for a distance of 157.68 feet, more or less to an iron post set at land of Associated Grocers; thence
2. South $82^{\circ} 28'$ East for a distance of 517.33 feet, more or less to the interstate Highway 293; thence
3. South $64^{\circ} 53' 52''$ West for a distance of 471.90, along said Interstate Highway 293 to the point of beginning.

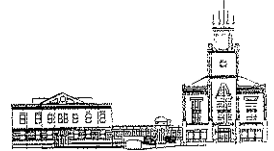


Robert S. MacKenzie, AICP
Director

CITY OF MANCHESTER

Planning and Community Development

Planning
Community Improvement Program
Growth Management



Staff to:
Planning Board
Heritage Commission
Millyard Design Review Committee

June 28, 2006

Mr. Leo Bernier, City Clerk
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Re: *Technical Review, Rezoning Petition – Gold Street*

Dear Mr. Bernier:

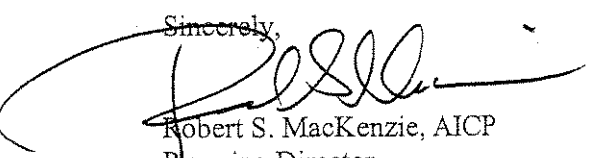
In accordance with the procedures on rezoning requests, the following information is being provided to your office in consideration of a rezoning request filed by the owner of one property and agent for a second property on Gold Street (including two lots: Lot 875-15 and 875-16). The subject parcels are located on the south side of Gold Street east of the former Lawrence Rail Branch. The first property is 15.2 acres currently containing the Associated Grocers Building and the second is .85 acres in size that is vacant. The subject properties are currently zoned *Industrial (IND)*. The applicant is requesting that the zoning district be changed to General Business (*B-2*).

Presently, while the parcels are adjacent to a B-2 on one side, the rezoning action would create one parcel that would be zoned IND and surrounded by B-2. As this could be considered spot zoning, we would recommend that the parcel at 835 Gold Street (Lot 875-14; 3.42 acres) also be considered by the Board for rezoning from IND to B-2. In the 1993 Master Plan for the City of Manchester, this area was identified as Industrial land use although the plan also recognized that extension of the business zone into areas of industrial zone was likely and that certain precautions should be taken. The key precaution from the Master Plan as it relates to this rezoning request states "...the proposed district should be evaluated to insure that possible projects will not encourage additional traffic impacts upon residential areas..." The applicants, working with the City, have devised a traffic calming plan to mitigate impacts on Gold Street and Sewall Street which may be considered by the Board of Mayor and Aldermen.

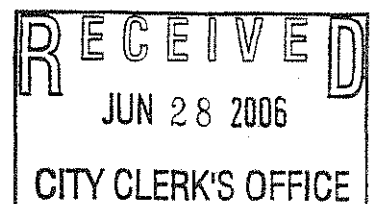
From a technical perspective, the petition may be forwarded to the Board of Mayor and Aldermen for consideration. Consistent with the policy for rezoning petitions, the planning staff is providing a copy of the petition to the Planning Board, the Building Department and the Office of the City Solicitor for comment.

I will be available for any questions that the Board may have.

Sincerely,


Robert S. MacKenzie, AICP
Planning Director

C: Planning Board
Office of the City Solicitor
Building Department
Economic Development Office
One City Hall Plaza, Manchester, New Hampshire 03101
Phone: (603) 624-6450 Fax: (603) 624-6529
E-mail: planning@ManchesterNH.gov
www.ManchesterNH.gov



City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester by extending the R-3 (Urban Multi-family) zoning district to include property currently zoned R-1B (Single-family) located on a portion of Tax Map 691 Lot #143-1 that will be on the north side of a proposed Gold Street Bypass and adjacent to Bradley Street and the New St Augustin's Cemetery"

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION 1. Amending the Zoning Ordinance of the City of Manchester by extending the R-3 (Urban Multi-family) zoning district to include property currently zoned R-1B (Single-family) located on a portion of Tax Map 691 Lot #143-1 that will be on the north side of a proposed Gold Street Bypass and adjacent to Bradley Street and the New St Augustin's Cemetery and being more particularly bounded and described as follows:

Beginning at a point at the centerline of Bradley Street at a point opposite the property lines of New Beech Hill Development Company, LP (TM 691-15A) and the Diocese of Manchester (shown on a subdivision plan approved by the Planning Board on February 23, 2006 as TM 691-143-1), said point being on the zone boundary line of the R-3 (Urban Multi-family) district and the R-1B (Single-family), prior to this amendment;

Thence, westerly across the Right of Way of Bradley Street and continuing along the northerly boundary of said property of the Diocese of Manchester TM 691-143-1, said line also being the zone boundary line between the R-3 (Urban Multi-family) district and the R-1B (Single-family), prior to this amendment, approximately 1206 ft. to a point;

Said point being the end of the northerly boundary of the Diocese of Manchester TM 691-143-1, and at the intersection with the following properties: TM 691-143, TM 691-135, TM 691-136 and TM 691-15A;

Thence, southerly along the boundary of property of the Diocese of Manchester TM 691-143-1 a distance of 285.94 ft. to a point;

Thence, easterly along the boundary of property of the Diocese of Manchester TM 691-143-1 a distance of 295.71 ft. to a point;

Thence, southerly along the boundary of property of the Diocese of Manchester TM 691-143-1 a distance of approximately 130 ft. to a point, said point being on the edge of the proposed Right of Way of the Gold Street Bypass;

Thence, easterly across the Right of Way of the Gold Street Bypass to the centerline of said Bypass a distance of approximately 30 feet to a point;

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

“Amending the Zoning Ordinance of the City of Manchester by extending the R-3 (Urban Multi-family) zoning district to include property currently zoned R-1B (Single-family) located on a portion of Tax Map 691 Lot #143-1 that will be on the north side of a proposed Gold Street Bypass and adjacent to Bradley Street and the New St Augustin’s Cemetery”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

Thence, northeasterly and easterly along the centerline of the Right of Way of the Gold Street Bypass as extended to the centerline of Bradley Street a distance of approximately 1,017 feet to a point;

Thence northerly along the centerline of Bradley Street to a point opposite the property lines of New Beech Hill Development Company, LP (TM 691-15A) and the Diocese of Manchester (TM 691-143-1) a distance of approximately 324 feet to a point, said point also being the point of beginning.

Said description meaning to include a portion of property of the Diocese of Manchester (shown on a subdivision plan approved by the Planning Board on February 23, 2006 as TM 691-143-1) consisting of approximately 8.1 acres of private land, to be rezoned from the R-1B (Single-family) zoning district to the R-3 (Urban Multi-family) zoning district, after this amendment.

SECTION II. Resolve this ordinance shall take effect upon passage.



Robert S. MacKenzie, AICP
Director

CITY OF MANCHESTER

Planning and Community Development

Planning
Community Improvement Program
Growth Management



Staff to:
Planning Board
Heritage Commission
Millyard Design Review Committee

July 20, 2006

Honorable Board of Mayor and Aldermen
City Hall
One City Hall Plaza
Manchester, New Hampshire 03101

re: Rezoning of Diocese Property behind Gold Street

Honorable Board Members:

This is to submit a request for rezoning for a portion of the Diocese Property adjacent to the proposed Gold Street Bypass from a single-family district (R-1B) to a multi-family district (R-3). The agreement that the Board recently acted upon called upon the City to initiate this rezoning. The Diocese has offered to donate the land necessary to create the new Gold Street Bypass as part of an overall plan to mitigate traffic in the area.

As this rezoning and the subsequent dedication of street area is necessary to complete the traffic improvements, it may be appropriate for the Board to time the final action on the rezoning of the Associated Grocers site with the rezoning of the Diocese property to insure that the creation of the Bypass is feasible.

From a technical standpoint, the Diocese rezoning is an extension of an existing multi-family zoning district and there are no other specific issues to preclude the rezoning to proceed to public hearing.

If you have any questions, I will be available at your next meeting.

Sincerely,

Robert S. MacKenzie, AICP
Director of Planning & Community Development

C: Planning Board
Building Department
Brad Cook
Tom Arnold
Paul Borek

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